

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

Case No. **19-CR-00565 JCH**

-VS-

ERIC MARTINEZ,

Defendant.

ORDER DENYING MOTION FOR FURLOUGH

THIS MATTER is before the Court on defendant Eric Martinez's Opposed Sealed Motion to Attend Funeral, filed on October 9, 2019. Doc. 54. Mr. Martinez is seeking release from custody for eight hours beginning tomorrow, October 10, 2019, at 8:00 a.m. to attend his aunt's funeral in Gallup, New Mexico. *See id.* Both the United States and U.S. Pretrial Services oppose the motion. *Id.* at 2; Doc. 55. The Court denies Mr. Martinez's motion for the following reasons.

First, although Mr. Martinez could not have anticipated his aunt's unfortunate death, he could have filed his motion as soon as he learned of her death. Filing this motion the day before the funeral makes it difficult for the government to respond to the motion, for pretrial services to investigate the situation, and for the Court to meaningfully consider the motion or hold any type of hearing.

Second, shortly after Mr. Martinez was arrested on the indictment in this case, he was released from custody on conditions of release and lived with his mother. *See Docs. 20, 26.*

Within three weeks, Mr. Martinez failed to show up for his substance abuse and mental health assessment and had not attended his orientation for drug testing, nor did he contact his supervising officer to explain why he could not attend these appointments. *See* Doc. 26. On May 22, 2019, Mr. Martinez's mother informed his supervising officer that Mr. Martinez had left her house four days earlier and had not returned, and that she no longer wanted him living with her. *See id.* Given that Mr. Martinez previously violated his conditions of release while living in his mother's household, the Court is not convinced that Mr. Martinez's mother can assure the Court that Mr. Martinez will return to custody as directed at the conclusion of his aunt's funeral. In addition, the pretrial services report indicates that Mr. Martinez repeatedly has failed to appear for Court hearings, which further supports the inference that he poses a substantial risk of flight if released, even for a short time. *See* Doc. 19. The Court will deny Mr. Martinez's request for a furlough because he is a flight risk.

IT IS THEREFORE ORDERED that defendant Eric Martinez's Opposed Sealed Motion to Attend Funeral (Doc. 54) is DENIED.

DATED this 9th day of October 2019



Laura Fashing
United States Magistrate Judge